

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JUSTIN ZINN,

Plaintiff,

vs.

No. CV 18-01016 MV/KRS

OFFICER VARGAS, et al.,

Defendants.

ORDER TO CURE DEFICIENCIES

THIS MATTER is before the Court on the pro se handwritten filing by Plaintiff Justin Zinn. (Doc. 1). The Court determines that the pro se filing is deficient because it is not in proper form and Plaintiff has not paid the \$400 filing fee or filed an Application to Proceed in the District Court Without Prepaying Fees and Costs.

Plaintiff states that his filing is made “in accordance to NMSA 1983 42-2-22 of New Mexico law. This tort claims at with 1983 claims.” (Doc. 1 at 1). However, NMSA 42-2-22 is a New Mexico state statute dealing with flood control and has no application to this proceeding in federal court. The filing also does not specify the relief sought by Plaintiff. Further, Plaintiff’s filing appears to assert civil rights claims against New Mexico correctional facilities, or officials. (Doc. 1 at 2-3). A civil rights complaint under 42 U.S.C. § 1983 is the exclusive vehicle for vindication of substantive rights under the Constitution. See, *Baker v. McCollan*, 443 U.S. 137, 144 n. 3 (1979); *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (claims against state actors for violation of § 1981 must be brought under 42 U.S.C. § 1983). The filing is not in proper form to assert civil rights claims.

In addition, under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required to collect the federal filing fee from the Plaintiff or authorize Plaintiff to proceed without prepayment of the fee. Plaintiff has not paid the \$400.00 filing fee or submitted an application to proceed under § 1915.

Plaintiff must cure the deficiencies if he wishes to pursue his claims. The deficiencies must be cured within thirty (30) days of entry of this Order. Plaintiff must include the civil action number, CV 18-01016 MV/KRS, on all papers he files in this proceeding. If Plaintiff fails to cure the deficiencies within thirty (30) days, the Court may dismiss this proceeding without further notice.

IT IS ORDERED that, within thirty (30) days of entry of this Order, Plaintiff Jason Zinn cure the deficiencies by (1) paying the \$400 filing fee or submitting an Application to Proceed in the District Court Without Prepaying Fees and Costs and (2) filing a prisoner civil rights complaint in proper form.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to mail to Plaintiff, together with a copy of this order, (1) two copies of an Application to Proceed in the District Court without Prepaying Fees and Costs under 28 U.S.C. § 1915, with instructions, and (2) a form prisoner civil rights complaint under 42 U.S.C. § 1983, with instructions.



UNITED STATES MAGISTRATE JUDGE